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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,012	07/09/2003	Ching-Tien Lin	5315	8753

26936 7590 09/21/2004

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,012

Applicant(s)

LIN, CHING-TIEN

5/1

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 2 and 6-13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. Examination of this application reveals that it includes terminology contrary to that which is generally accepted in the art to which this invention. In particular, the term "shim" is not used consistently with its art-accepted meaning.

Applicant is required to provide a clarification of these matters or correlation with art-accepted terminology. Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed). It is suggested that the term be replaced with -pin- or other language to be consistent with the structure that has been disclosed corresponding with use of the term.

Claim Objections

2. Claim 8 is objected to because of the following informalities: the term "shim" is apparently used in a manner contrary to its accepted meaning. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While no limitation of claim 14 positively recites the "shaft" as part of the invention, it becomes unclear if further limitations of that member in claim 15 are intended to further define other of the structures that are claimed as the invention, or are intended to include and further define the structure of the "shaft". Clarification and/or correction of claim 15 (and claim 14 if appropriate) is required.

As regards claim 16, it is not clear what material or range of materials should be included by limitation of "heat melting material" where most common materials such as brass, steel, iron, etc., all have a melt temperature at which they melt due to heat. Assumably, the limitation implicitly encompasses some range of materials or melting points but there is no standard in the claims or specification for determining the limits of that range and thereby determining which materials meet the limitation.

Claim Rejections - 35 USC § 112

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,988,708 to Frolov.

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Frolov '708 teaches Applicant's claim limitations including : a "first opening unit located inside a fire door" - as shown on lower (as shown on the face of the Patent) surface of the door and including 94, "an "opening member" - any of the structures 34,36,38,40,44,48,52,42,46,50,54,56 as described at col 6; line 43 read on broad limitation since no particular arrangement or structure is defined by "*corresponding* in position" that might be relied upon to distinguish from arrangement of the device of the reference and noting that limitation of "coupled" doesn't require direct contact or engagement but is broad enough to include connection via intermediate elements, a "lock bolt" - 20, "lock bolt mount" - part 20's mounting structure, a "second opening unit mounted on an opposite side of the fire door" - as shown on upper (as shown on the face of the Patent) surface of the door and including 30, having a "handlebar" - 30, an "actuator rotatably disposed in the handlebar" - 58, a "push rod" - 62, a "swing arm" - including 96,98.

couple >noun 1 two individuals of the same sort considered together. 2 [treated as sing. or pl.] two people who are married or otherwise closely associated romantically or sexually. 3 informal an indefinite small number. 4 Mechanics a pair of equal and parallel forces acting in opposite directions and tending to cause rotation. >verb 1 (often be coupled to/with) connect or combine.

As regards claim 3, part 15 reads on "lock cover", the door's surface at that area on "lock cover mount plate, and part 28 on "base plate" where it is inherently capable of functionally recited limitation of, "for securing the base plate to a recessed base mount" (should one be provided), where it's noted that present invention doesn't include the "base mount". Accordingly, how it could be

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used with one amounts to little more than a statement of intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). See MPEP 2114.

5. Claims 1, 3-5, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,490,697 to Surko.

Surko '697 teaches Applicant's claim limitations including : a "first opening unit located inside a fire door" - including 94,105 as shown in Fig 1, "an "opening member" - portion including 60, a "lock bolt" - 34, "lock bolt mount" - its mounting structure, a "second opening unit mounted on an opposite side of the fire door" - including 32 as shown in Fig 2, having a "handlebar" - 32, an "actuator rotatably disposed in the handlebar" - 40, a "push rod" - 42, a "swing arm" - 96.

As regards claim 3, part 24 reads on "lock cover", 14 on "lock cover mount plate" and 14 on "base plate".

As regards claim 4, as seen from both ends, the cross-sectional shape of part 24 provides a "horseshoe" (with particular note that disclosed 'horseshoe' is very unlike an actual horse's shoe whereby limitation must be interpreted broadly at least since the present disclosure uses it broadly) on left side of 24 and another on the right side, the one at the left (as shown in Fig 2) including a "hole".

As regards claim 14, Surko discloses holes in parts 40 or holes in part 24 that are used for mounting the 'lock bolt' 34 and read on limitation of "through hole formed in a central position of the lock bolt mount". The "shaft" is not positively recited as part of the invention whereby further description of its structure does not further define the structure of the elements that are positively recited as comprising the invention. It is suggested that "for accommodating" be replaced with -accommodating-. Further regarding claims 14 and 15, see MPEP 2173.06.

As regards claim 16, limitation of "heat melting material" does not patentably define over the lock bolt (34) mounting structure which is inherently capable of melting at a temperature (its melting point) due to heat.

Allowable Subject Matter

6. Claims 2 and 6-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 4,961,330 to Evans.


U.S. Pat. No. 5,947,534 to Zarzycki.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
Art Unit 3676